

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. NO. 04-11807-MLW

AT&T WIRELESS SERVICES OF
MASSACHUSETTS, INC., d/b/a AT&T
WIRELESS, and EASTERN TOWERS, LLC,

Plaintiffs

v.

TOWN OF WAYLAND, MASSACHUSETTS,
BOARD OF APPEALS OF THE TOWN OF
WAYLAND and JAMES E. GRUMBACH, ERIC B.
GOLDBERG, STEVEN FUGARAZZO,
LAWRENCE K. GLICK, SUSAN KOFFMAN,
SHAUNT SORIAN, ADIA GENNIS, LINDA
SEGAL, as they are members and alternate members
of the Board,

Defendants

ADDITIONAL MOTION TO
ENLARGE TIME TO FILE
RESPONSE TO “PLAINTIFFS’
MOTION FOR AN ARGUMENT ON
THE MERITS AND JUDGMENT IN
THEIR FAVOR ON COUNT II
(SUBSTANTIAL EVIDENCE)” AND
“MOTION FOR PRELIMINARY
INJUNCTION” (ASSENTED TO)

Defendants (collectively, “Town”) hereby move that the time for responding to the Plaintiffs’ “Motion for an Argument on the Merits and Judgment in Their Favor on Count II (Substantial Evidence)” (“Substantial Evidence Motion”) and “Motion for Preliminary Injunction” (collectively, “Plaintiffs’ Motions”) be further enlarged until June 17, 2005.

As grounds for this Motion, the Town relies on the following:

1. This case is an appeal under the Telecommunications Act of 1996, 47 U.S.C. §332(c)(7), from the decision by the Board of Appeals to deny zoning permits for a 120-foot-high telecommunications facility at 137 Boston Post Road, Wayland, Massachusetts.
2. The Town filed an assented-to motion that the time for the Town to respond to the Plaintiffs’ Motions would be enlarged until May 27, 2005 and the Court allowed that motion.
3. The Town filed a further assented to motion agreeing that the time for the Town to respond would be enlarged until June 10, 2005.

4. The parties have continued to attempt to mediate the dispute; they met with a mediator on April 26 and May 18, 2005. Since then they are continuing to meet and to discuss settlement and settlement discussions are progressing.

5. As stated in the prior motions to enlarge time, in order to respond to the Plaintiffs' Motions, the Town will be required to address all of the issues in the litigation, including those which are the subject of expert testimony. The Town's expert will require substantial time to evaluate and respond to the expert allegations in the Plaintiffs' affidavits filed in support of the Motion for Preliminary Injunction.

6. Due to the ongoing settlement efforts, the scope of the Plaintiffs' Motions, and other professional obligations of the Town's counsel, the June 10, 2005 deadline should be enlarged.

WHEREFORE, the Town requests that the time for it to respond to Plaintiffs' Motions be enlarged to June 17, 2005.

DEFENDANTS

By their attorneys,

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ASSENTED-TO
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